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MAY 04 2004

Special Program Unit
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CONFIDENTIAL

To: USPTO Special Programs Examiner
Kristen Zele

From: Stephen J. LeBlanc

Fax: 703-305-4701

Date: May 4, 2004

Phone: 703-746-5919

Pages: 26 (including cover)

Re: Application No. 09/309,321
Examiner: Edwin C. Holloway, III

Our File: 512-000400US

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•Attached:**• Certificate of Timely Mailing of Appeal Brief**

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By: 

Amelia Weintraub

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by


Amelia Weintraub

Attorney Docket No. 512-000400US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Charles H. Reynolds et al.

Application No.: 09/309,321

Filed: May 11, 1999

For: **METHOD AND APPARATUS FOR A
REMOTELY SWITCHABLE POWER
SUPPLY**

Examiner: Edwin C. Holloway, III

Art Unit: 2635

**STATEMENT OF TIMELY MAILING OR
TRANSMISSION OF
CORRESPONDENCE (37 C.F.R. 1.8, 1.10)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is a copy of correspondence that was previously sent to the U.S. Patent and Trademark Office on March 15, 2004. The return acknowledgment postcard that accompanied this correspondence has been received from the USPTO with the OIPE stamp date of March 19, 2004 (a copy of which is also enclosed).

Specifically, the following documents were enclosed in the mailing of March 15, 2004:

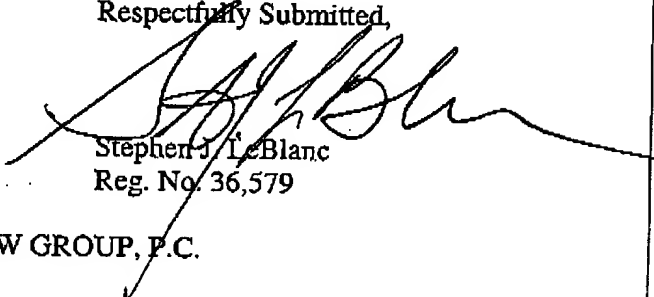
- 1) Transmittal
- 2) Appeal Brief (+ two copies)
- 3) Request for Extension of Time (+ one copy)
- 4) Receipt Acknowledgement Postcard

As indicated in the signed Certificate of Mailing on these documents, and as evidenced by the return receipt postcard, these documents were deposited with the U.S. Postal

Charles H. Reynolds et al.
Application No.: 09/309,321
Page 2

Service as First Class Mail on March 15, 2004 in accordance with 37 C.F.R. § 1.8. Accordingly, applicants submit that the attached documents should be considered timely filed.

Respectfully Submitted,



Stephen J. LeBlanc
Reg. No. 36,579

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P.O. BOX 458
Alameda, CA 94501
(510) 337-7871/Fax (510) 337-7877

TO THE U.S. PATENT & TRADEMARK OFFICE

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RE: Appeal Brief for METHOD AND APPARATUS FOR A REMOTE
SWITCHABLE POWER SUPPLY

MAR 25 2004

TITLE OF DOCUMENT(S):

- Transmittal Sheet
- Appeal Brief (+ two copies) - 18 pages
- Request for Extension of Time (+ one copy)
- Receipt Acknowledgement Postcard

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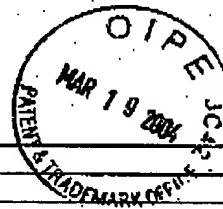
Application No. 09/309,321

File No. 512-000409US

Date Due December 14, 2003

Date Mailed March 15, 2004

Atty/Secty. SJL:agw



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TITLE OF DOCUMENT(S):

- Transmittal Sheet
- Appeal Brief (+ two copies) - 12 pages
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- Receipt Acknowledgement Postcard

Application No. 09/309,321

File No. 512-000400US

Date Due December 14, 2003

Date Mailed March 15, 2004

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PTO/SB/21 (05-03)

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(to be used for all correspondence after initial filing)

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Application Number	09/309,321
Filing Date	May 11, 1999
First Named Inventor	Charles H. Reynolds
Group Art Unit	2635
Examiner Name	Edwin C. Holloway, III
Attorney Docket Number	512-000400US
Total Number of Pages in This Submission	18

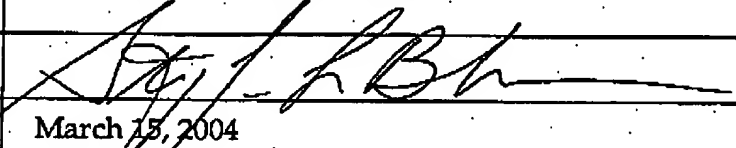
ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): receipt acknowledgment postcard
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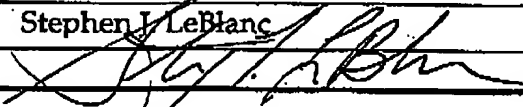
Authorization to Charge Deposit Account
Please charge Deposit Account No. 50-0893 for any additional fees associated with this paper or during the pendency of this application, including any extensions of time for consideration of the documents enclosed.

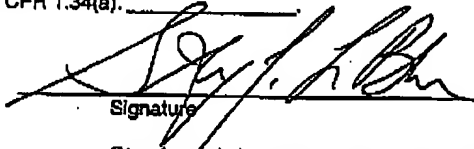
Remarks: Appeal Brief submitted in triplicate

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

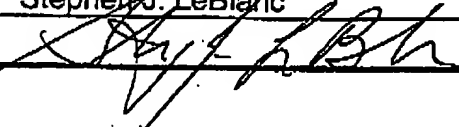
Firm or Individual name	Stephen J. LeBlanc, Reg. No. 36,579, Quine Intellectual Property Law Group, P.C.
Signature	
Date	March 15, 2004

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Typed or printed name	Stephen J. LeBlanc		
Signature		Date	March 15, 2004

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 512-000400US			
COPY					
				In re Application of Charles H. Reynolds, et al.	
				Application Number: 09/309,321	Filed: May 11, 1999
				For METHOD AND APPARATUS FOR A REMOTELY SWITCHABLE POWER SUPPLY	
Group Art Unit 2635		Examiner Edwin C. Holloway, III			
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above-identified application.					
The requested extension and appropriate non-small-entity fee are as follows (check time period desired):					
<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ 110			
<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$ 420			
<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$ 950			
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$1480			
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A small entity statement under 37 CFR 1.27:					
<input type="checkbox"/>	is enclosed.				
<input checked="" type="checkbox"/>	has already been filed in this application.				
<input type="checkbox"/>	A check in the amount of the fee is enclosed.				
<input checked="" type="checkbox"/>	The Commissioner has already been authorized to charge fees in this application to a Deposit Account.				
<input checked="" type="checkbox"/>	The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number <u>50-0893</u> . I have enclosed a duplicate copy of this sheet.				
I am the	<input type="checkbox"/>	assignee of record of the entire interest.			
	<input type="checkbox"/>	applicant.			
	<input checked="" type="checkbox"/>	attorney or agent of record.			
	<input type="checkbox"/>	attorney or agent under 37 CFR 1.34(a) Registration number if acting under 37 CFR 1.34(a): _____			
March 15, 2004		Date			
		Signature 			
		Stephen J. LeBlanc, Reg. No. 36,579 Typed or printed name and Reg. No.			

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Signature			Date March 15, 2004

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 512-000400US																		
COPY																				
In re Application of Charles H. Reynolds, et al.																				
Application Number: 09/309,321		Filed: May 11, 1999																		
For METHOD AND APPARATUS FOR A REMOTELY SWITCHABLE POWER SUPPLY																				
Group Art Unit 2635	Examiner Edwin C. Holloway, III																			
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above-identified application.</p> <p>The requested extension and appropriate non-small-entity fee are as follows (check time period desired):</p> <table style="width: 100%; border: none;"><tr><td style="width: 15%;"><input type="checkbox"/></td><td style="width: 60%;">One month (37 CFR 1.17(a)(1))</td><td style="width: 25%; text-align: right;">\$ 110</td></tr><tr><td><input type="checkbox"/></td><td>Two months (37 CFR 1.17(a)(2))</td><td style="text-align: right;">\$ 420</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Three months (37 CFR 1.17(a)(3))</td><td style="text-align: right;">\$ 950</td></tr><tr><td><input type="checkbox"/></td><td>Four months (37 CFR 1.17(a)(4))</td><td style="text-align: right;">\$1480</td></tr><tr><td><input type="checkbox"/></td><td>Five months (37 CFR 1.17(a)(5))</td><td style="text-align: right;">\$2010</td></tr><tr><td><input checked="" type="checkbox"/></td><td colspan="2">Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: \$ <u>475.00</u></td></tr></table> <p>A small entity statement under 37 CFR 1.27:</p> <p><input type="checkbox"/> is enclosed.</p> <p><input checked="" type="checkbox"/> has already been filed in this application.</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input checked="" type="checkbox"/> The Commissioner has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number <u>50-0893</u>. I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> assignee of record of the entire interest.</p> <p style="margin-left: 40px;"><input type="checkbox"/> applicant.</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> attorney or agent of record.</p> <p style="margin-left: 40px;"><input type="checkbox"/> attorney or agent under 37 CFR 1.34(a)</p> <p style="margin-left: 80px;">Registration number if acting under 37 CFR 1.34(a): _____</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 30%;">March 15, 2004 Date</div><div style="width: 60%; text-align: center;"> Signature Stephen J. LeBlanc, Reg. No. 36,579 Typed or printed name and Reg. No.</div></div>			<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ 110	<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$ 420	<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$ 950	<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$1480	<input type="checkbox"/>	Five months (37 CFR 1.17(a)(5))	\$2010	<input checked="" type="checkbox"/>	Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: \$ <u>475.00</u>	
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Signature		Date
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By: 

Atty Docket No: 512.000400US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

REYNOLDS

Application No.: 09/309,321

Filed: 5/11/1999

For: METHOD AND APPARATUS FOR A
REMOTELY SWITCHABLE POWER
SUPPLY

Examiner: HOLLOWAY III, EDWIN C

Art Unit: 2635

APPEAL BRIEF**RECEIVED**
MAY 04 2004
Special Program Unit
Group 2700Commissioner for Patents
Alexandria, VA 22313

Dear Sir:

APPEAL BRIEF**Real Party in Interest.**

The real party in interest in the present appeal is Cyber Switching, Inc., the assignee of the above-referenced application.

Related Appeals and Interferences.

Appellants, Appellants' Attorney, and the assignee of the present application are unaware of any appeals or interferences that will directly affect, be directly affected by, or have a bearing on, the Board's decision in the present appeal, with the exception of an appeal in co-pending Application No.: 09/471,101, filed 21 December 1999.

Status of Claims.

On 9 October 2003, Appellants appealed from the final rejection of claims 1-14 and 16-21. Claims 16-21 were added after filing, and claim 15 was subsequently cancelled. Accordingly, all of the pending claims are rejected and on appeal.

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Status of Amendments.

The claims were finally amended on 2 April 2003 in response to the Office Action dated 2 December 2002. Accordingly, the appealed claims are the claims as amended in the 2 April 2003 amendment.

Summary of Invention.

Appellants' invention involves methods and systems for controlling power to a number of network devices in a standard networked information setting. In the claimed invention, multiple power outlets can be individually and independently controlled in a network rack unit using a control signal carried on a separate line of a power supply. As discussed in the specification, realization of the invention required careful configuration of power control circuitry to allow the device to operate without causing interference to communication signals. The invention is a departure from all other rack-mounted systems known in that it provides multiple, independently controlled power circuits, rather than circuits that are connected to one another to provide staggered power-on or that are connected by a single microcontroller and require a command code to be interpreted indicated which power supply is being controlled.

Claim 1 relates to a controllable power supply for remotely controlling communication equipment with at least three independent network sockets associated with independent power supply sockets so that power to each of the power supply sockets is able to be independently turned on or off directly in response to a high or low state of a control signal independently received at the at least three sockets and includes some structural limitations. Claim 2, 4-9, and 11-12 discuss further limitations and are dependent on claim 1. Claims 3 and 10 further specify second sockets for incoming sockets allowing a network data signal to pass out of the power control device. Claim 13 is a method claim reciting a method for arranging network control sockets and controlled power sockets on the opposite surfaces of a device so that the elements can be arranged without causing

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Page 3

interference in the communication device. Claim 14 is a different embodiment of a system similar to that recited in claims 3 and 10. Claims 15-21 are dependent on claim 14.

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The appealed claims are set forth in Appendix A.

Issues

The original application was filed 11 May 1999 and received serial number 09/309,321. The application as filed included 13 claims. In an amendment filed 31 October 2000, applicant added claims 14-21. The final amendment entered in this case was mailed 2 April 2003. It amended claims 1, 3, 5, 10, 14, and cancelled claim 15. In the Final Office Action (dated 10 June 2003), claims 1-14 and 16-21 were rejected as obvious over the combinations of CHENG '174 or PULIZZI '103 in combination with EMM 96 and LORD '806. Final Office Action (dated December 16, 2003), pages 3. A notice of appeal was filed on 9 October 2003 and this appeal brief results.

Grouping of Claims.

The pending claims do not stand or fall together. In particular, claims 1-2, 4, 6-9, 11, 12 stand or fall together. Claims 3, 5 and 10 are separately patentable. Claim 13 is separately patentable. Claims 14, 15-21 are separately patentable.

Claim 1 relates to a controllable power supply for remotely controlling communication equipment with at least three independent network sockets associated with independent power supply sockets so that power to each of the power supply sockets is able to be independently turned on or off directly in response to a high or low state of a control signal independently received at least three sockets and includes some structural limitations. Claim 2, 4-9, and 11-12 discuss further limitations and are dependent on claim 1. Claims 3 and 10 further specify second sockets for

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incoming sockets allowing a network data signal to pass out of the power control device. Claim 13 is a method claim reciting a method for arranging network control sockets and controlled power sockets on the opposite surfaces of a device so that the elements can be arranged without causing interference in the communication device. Claim 14 is a different embodiment of a system similar to that recited in claims 3 and 10. Claims 15-21 are dependent on claim 14.

Thus, the device claims each include the following basic elements:

- (a) A controllable power supply for remotely controlling communication equipment comprising:
- (b) at least three independent first network sockets;
- (c) wherein each of said first sockets are able to receive standard network cable connectors and able to independently receive control signals transmitted over a wire of a network cable;
- (d) at least three independently controlled power supply sockets;
- (e) control circuitry within said housing operatively connected with said first sockets, and said power supply sockets wherein power to each of said power supply sockets is able to be independently turned on or off directly in response to a high or low state of said control signals received at said first sockets.

The method claim includes the following basic elements:

- (a) A method of constructing a controllable power supply wherein sockets and control circuitry are contained within a housing having a constrained height and wherein a network cable can be used to carry a control signal without generating unacceptable interference on said network cable comprising:
- (b) placing a network socket on one surface of said housing, said network socket able to receive signals from a plurality of separate wires in a multiple wire network cable;
- (c) placing a power supply outlet on an opposite surface of said housing; and

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- (d) placing control circuitry within said housing, said control circuitry operatively connected with said network socket and said power supply socket wherein power to said power supply socket is able to be turned on or off directly in response to a high or low state of a control signal received over a control signal wire of a network cable, said control signal wire separate from data carrying wires.

Argument.

I. The rejection of claims for obviousness is improper.

A. The rejection.

Claims 1-14 and 16-21 stand rejected for obviousness over the combinations of CHENG '174 or PULIZZI '103 in combination with EMM 96 and LORD '806. (Final Office Action dated 10 June 2003, page 3). However, the rejections rest on a incorrect interpretation of what is actually shown in the asserted references, particularly in LORD. Furthermore, the only basis for combining suggested by the Examiner is to achieve the exact advantages claimed by application. (Final Office Action dated 10 June 2003, page 7) The Examiner has never shown where the prior art suggests that these particular advantages are desirable or ever suggests the claimed invention as a means of achieving these advantages.

In the Final Office Action (dated 10 June 2003), pages 4-5, the Examiner states:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified CHENG '174 or PULIZZI to include the housing limitations of EEM 96 because Cheng and PULIZZI refer to rack mount or stacked units, because EEM 96 discloses the claimed rack mount housing for analogous art remote controlled power supply including devices by PULIZZI and because it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse 86 USPQ 70."

In the Final Office Action (dated 10 June 2003), page 5, the Examiner states:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above power control signals communicated on a pin or wire of standard network socket(s) or cable(s) such as standard RS-242C connector or cable, while

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other pins or wires are passed through as disclosed in Lord and to have included circuitry turned on or off directly in response to the high/low state of a control signal in view of Lord disclosing power control relay 220 in order to allow power control of network devices with a simple and flexible circuitry.

The inclusion of multiple pairs of control sockets associated with one or more corresponding independently controlled power supply sockets would have been obvious in view of the various configurations shown in EEM 96 with multiple remote I/O connections associated with multiple switched power, because plural power supply sockets and corresponding network sockets was admitted as prior art on page 1 line 23- page 2 line 2 of applicant's specification and because plurality of part for multiplied effect is well known to be obvious. RJ-45 would have been obvious in view of the Lord disclosing use of any standard data communications interface and EEM showing RJ-45 as standard data communication interface on rack-mounted components."

It appears that the Examiner is asserting two combinations as the basis for rejecting all claims: (1) CHENG '174 in combination with EMM 96 and LORD '806 or (2) or PULIZZI '103 in combination with EMM 96 and LORD '806. From the Examiner's arguments, it appears that LORD is the key reference for showing operational limitations of the invention. (See Final Office Action dated 10 June 2003, page 7)

B. LORD '806 (U.S. 5,198,806) does not show the operational features of the invention as asserted by the Examiner

The patent to LORD discusses a remote controller for a home computer system accessed over a telephone line and a conventional external modem 40. The modem receives, over a telephone line or "private network" 45, a carrier encoded data call and determines if a valid carrier is present. If it is, the modem generates a carrier detect signal which is connected through controller 10 to a relay to activate a power connection. Control software is used to make the invention overall operate, in particular initiate turning off power if a user is not authorized. Col. 6, line 53 - col. 7 line 35 described operation of one part of the Lord device, with reference to both Figs. 1 and 3. In Lord, the

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power control circuit is not connected to a network or external communication signal, but is connected to a signal decoded and generated by the local modem.

Lord does show a connection between a local modem and a local computer using a local interconnect cable to turn on (though not off) the power locally to the computer. The control relay for doing this is similar in operation and activation to the control relay shown in the specification of the present invention and recited in dependent claims 5 and 17.

However, the Examiner is relying on a modification to Lord (using a signal received directly over a communication channel) that would make Lord unsuitable for its purpose of providing secure access at a home over a telephone dial-up modem. Lord DOES NOT teach any direct operative connection between a control signal line carried over a network and an ON/OFF mechanism. In Lord, no such signal is communicated. A telephone call is made. A modem determines if there is a carrier present on an incoming telephone call. Only after decoding the incoming communication signal and determining that there is a valid carrier present, does the modem then assert, locally, a "carrier detect." This particular "carrier detect" signal was not communicated over the Lord telephone line or network 45, it was, as discussed in Lord, generated locally by the local modem upon the modem detecting a carrier signal. Thus, there is no "carrier detect" line or data signal or wire in Lord telephone line or network 45.

In response to Applicant's previous arguments, the Examiner stated "Lord clearly discloses in figs. 3 and 6 and cols. 5-7 that the power is switched in response to only a single line of a standard network cable as claimed by applicant."

However, Lord does not show what is asserted by the Examiner. Lord shows a modem that generates a carrier detect signal locally from a telephone or private network 45, and then uses that

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locally generated signal through a local "interconnect" cable to turn on a relay to power a local personal computer. (Very clearly illustrated in Fig. 1.) Lord does not suggest how its secure dial-up modem scheme could be used in a network environment or be modified or combined as urged by the Examiner to achieve the claimed invention. "Interconnect" or "interface" cable 60 are not network cables, as asserted by the Examiner, but are in fact, local serial "interconnect" cables as stated in the Lord patent. There is no direct control of a power outlet by a network signal, as recited in the claims, but instead Lord teaches that a signal is first received at a local modem device, decoded, and then a carrier detect signal can be used to turn on a power outlet. There is no discussion in Lord of turning off a power supply in response to a network signal.

The Examiner makes a number of assertions regarding Lord on page 6 of the Office Action, which are not supported by Lord or by terms used as commonly understood in the art. For example, the Examiner asserts: "The argument that the modem 40 and/or computer 25 of Lord provide decoding is not persuasive because the modem and computer are separate network devices corresponding to the network controller in the form of a router generating power control signals on page 3 lines 9-17 of applicant's disclosure." (emphasis added.) Nothing in Lord or the art supports this interpretation. Lord clearly describes and illustrates a telephone connection to a local modem to a local personal computer. The examiner asserts that a local dial-up modem connected by a local serial interconnect cable to a local computer is equivalent to network connection using a router. There is no support for this equivalency in Lord, in any cited reference or in the art generally. Lord in fact indicates that a network connection is analogous to telephone line 45, in other words something other than a local, direct serial connection. Thus, the Examiner assertion that the local connection of modem 40 to local computer 150 is equivalent to a network connection is contradicted by the term both as commonly understood in the art and as used in Lord. Lord, itself, shows that its

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relay device in 12 is not controlled directly by any signal carried on its network 45, it is turned on by a signal that is generated by modem 40 after decoding what is received from the network. Lord makes this very explicit, in fact:

...The connector 100 on invention 10, acts as an interconnect between the modem 40 and the serial port of the local computer 25 via connector 65. All signals from the modem 40 and computer 25 are passed via this connection which to the electronical communication transmitted so that the invention 10 appears to be electronically transparent. One particular signal, namely the carrier detect from modem 40 which is sensed by a conventional sensitive electromechanical relay 220 (typical device Stancor Part No. MS64-931 manufactured by Hamilton Standard Controls, 131 Godfrey, St. Logansport, Ind.) via rectifying diode 225 (typically a 1N914 or equivalent) which is carried by interconnecting cable 60 and generated by modem 40 in response to a signal carried via the interconnect means 45 which is placed thereupon from remote computer or terminal 30 by local modem 35 ...The carrier detect signal is generated by the modem 40 when the carrier from a remote modem 35 is detected and found to be compatible for the communication exchange required. FIG. 5 depicts another method of packaging the circuitry where by only the necessary communication signals are tapped off a cable adapter 400 which is of RS232-C or equivalent near the modem or the computer's serial port then carried back to the power switching enclosure. (Col. 6-7)

The Examiner has provided no evidence that a local interconnect cable connecting a dial-up modem to its local computer as understood when Lord was filed is equivalent to a standard network connection that is addressable from a far distant router over standard network cables.

The Examiner attempts to overcome the failure to show any evidence for reading the different scheme of the present invention as equivalent by stating:

"Lord clearly discloses in figs. 3 and 6 and cols. 5-7 that the power is switched in response to only a single line of a standard network cable as claimed by the applicant. The argument that the modem 40 and/or computer 25 of Lord provide decoding is not persuasive because the modem and computer are separate network devices corresponding to the network controller in the form of a router generating power control signals on page 3 lines 9-017 of applicant's disclosure. The argument that the power switching unit of Lord is directly connected to modem and not a network is not

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persuasive because the cables 60 and 70 connect thru the power switching device interconnects or networks all signal form modem 40 computer 25 in col. 4 lines 35-46." (emphasis added.)

Thus, the Examiner's Lord rejection relies on confounding terms and devices that are understood as different in the art. The Examiner's forced interpretation of Lord that "the modem and computer are separate network devices" is entirely unsupported by any prior art references and requires defining terms contrary to their ordinary use in the art. Lord discloses a "conventional" modem connected to a local personal computer via a local serial interconnect cable. There is no support in the art to referring to such a modem locally connected to a personal computer to provide dial-up services as "a separate network device" from the computer to which it is locally connected. While Lord suggests that the telephone system shown in Fig. 1 could also be understood as a private network, Lord never suggests the interpretation urged by the Examiner. The Examiner attempts to forcibly equate "interconnects" as "networks," however networks is understood in the art as a specific form of interconnecting specific types of devices. There is no support in the art for interpreting a local, unshared connection between a dial-up modem and a personal computer as "networking."

C. The EEM 96 catalog devices operate differently from the claimed invention.

The Examiner stated that: "EEM 96 discloses rack mounted remote controlled power supplies such as MPD-100R...It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cheng '174 of Pulizzi to include the housing limitations of EEM 96." (Final Office Action dated 10 June 2003, page 4). Thus, the Examiner only relies on EEM 96 for its general housing limitations. Applicant has acknowledged that other network device power controllers have similar housing to specific embodiments of the claimed

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invention. However, as the catalog pages relied on by the Examiner did not specify in detail operation of any of the devices mentioned, Applicant located additional information about these power supplies referenced by their model number. This additional information demonstrated that none of the cited power supplies use a standard network signal or network connection to control ON/OFF operation. These supplies, instead, require a separate signal to be run to the supplies from a computing device, especially for the purpose of remote operation. In some designs, this control signal, can be passed through the power supply to another power supply only to provide for a number of power supplies to be controlled by the same control signal in a daisy-chain or parallel fashion. Thus, the EEM 96 power controllers do not operate as recited in the pending claims as appears to have been conceded by the Examiner.

D.. Pulizzi (U.S. 5,923,103) does not operate in a way similar to the claimed invention.

The patent discusses a switched-output controller apparatus with repeater function that includes a microcontroller 18 that can communicate with remote control signals through various sockets e.g. 142, 144, 160, 162. As shown in the figure and discussed in the patent, all eight relays 60-74 are controlled by signals from the microcontroller 18 through a relay driver 24. The patent suggests that there is a command protocol for instructing microcontroller 18 in how to schedule switch operation of the outlets 40-54 through the relays. As shown in the figure and discussed in the patent, there is no direct operative connection between a signal line in any of sockets 142, 144, 160, 162 and the relays. The patent discusses at length that communication to the relays is through an RJ232 connection that allows microcontroller 18 to receive signals FROM A MODEM. (See Col. 2: Lines 46-50 and Col. 8: Lines 34-58.) The patent also discusses at length that if it is desired to control devices located at different locations, an RS485 or RS482 type network connection is made

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using a different set of RS11 connectors. RS422 and RS485 interfacing is known in the art as using a twisted-pair wire (i.e. 2 wires) for each signal (for example see www.kkssystems.com/serdesc1.html). The main difference between RS422 and RS485 is as follows: RS422 has no tri-state capability (its driver is always enabled) and it is therefore usable only in point-to-point communications (although an RS422 device can act as a Master on a 4-wire RS485 system). RS485 has tri-state capability and can therefore be used in multidrop systems. RS422 is full-duplex, i.e. data can flow in both directions simultaneously - and often does. RS422 uses two separate twisted pairs. RS422 is often used simply for extending RS-232 cables. RS485 is half-duplex. It exists in two varieties: 2-wire (which uses a single twisted pair) and 4-wire (which uses two twisted pairs like RS422). RS485 systems are usually "Master/Slave"; each Slave device has a unique address and it responds only to a correctly addressed message (a "poll") from the Master. A Slave never initiates a dialogue. In a 2-wire system, all devices (including the Master) must have tri-state capability. In fact, it appears that a major advance claimed by Pulizzi is the need for, and presence of, TWO ENTIRELY DIFFERENT AND SEPARATE NETWORK CONNECTIONS for the device to operate (See Abstract, 2d to last sentence and elsewhere throughout.) In particular, Pulizzi discusses that prior systems had just RS232 networks, which were limited to 200 foot operation (Col. 2: line 45 to Col. 3, line 63) and a major advance taught in the patent is use of two separate "in parallel" networks.

Pulizzi teaches away from the invention in that Pulizzi discusses that to control an outlet, communication must first be made to a microcontroller 18 through a modem connection vi RJ11 connectors. This does not teach or suggest using a standard network connection that also carries data or separate lines as recited in the claims. Further Pulizzi discusses that communication with additional controlled outlets must be accomplished through an entirely separate master/slave device

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type communication through an RS232 or RS485 or RS422 type connection, with a further limitation that the devices cannot be more than 4,000 feet apart.

E.. Cheng (U.S. 5,644,174) does not operate in a way similar to the claimed invention.

The patent discusses a power sequencer, with further provisions for daisy chaining. CONTROL IN is described as a separately generated control signal that can also be used for daisy chaining. There is no illustration or discussion whatsoever anywhere in the reference of a network provided signal or standard network port being used for controlling operation. The CONTROL IN signal is not carried over a network cable that also carries data. The connection of the CONTROL IN signal is not a standard network connection. Further, the present invention does not discuss or teach daisy chaining, but instead teaches that each device is controlled separately and that any pass through socket is for passing through data signals, not passing through a control daisy-chain signal. Thus, as previously argued there is no discussion or illustration whatsoever in Cheng of the limitations "a first network socket located on a first of said distinguishable surfaces; wherein said first socket is able to receive a standard network cable connector and able to receive a control signal transmitted over a wire of a network cable;" provided in claim 1 or the limitation "wherein a network signal cable can be used to carry a control signal without generating unacceptable interference on said network cable;" of claim 13 or the limitations "a first network socket located on a first surface, said first socket connectable to a standard network cable; a second network socket located on said first surface, said second socket connectable to a standard network cable; a power supply socket located on a second surface; and control circuitry within said housing operatively connected with said first socket and said power supply socket wherein power to said power supply socket may be turned on or off in response to a control signal received over one wire of a standard network cable at said first

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socket while not interfering with network communication signals on different wires flowing between said first socket and said second socket." of claim 14. While Cheng does appear to discuss a control input socket 204, nothing in Cheng suggests that such a socket is a standard network socket or is capable of carrying standard network data signals that are not interfered with by the control signals carried on the same cable.

F. There is no motivation to combine the references

More specifically, to establish a *prima facie* case of obviousness, the Examiner must demonstrate that (1) all elements of the invention are found in the cited art; (2) the cited art provided motivation to combine or, if necessary, modify these elements to arrive at the claimed invention; and (3) the cited art revealed that, in making the claimed invention, those of ordinary skill in the art would have a reasonable expectation of success.

The record is devoid of any reason why one skilled in the art would modify the art or make the combinations suggested by the Examiner.

Conclusion

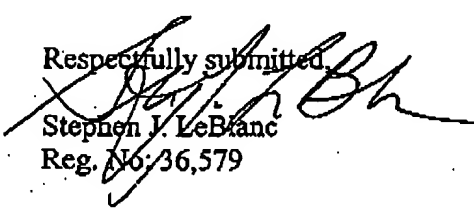
Appellants submit that the Examiner's rejection of claims 1-14 and 16-21 for obviousness is improper. Withdrawal of these rejections by the Examiner or reversal by the Board is respectfully requested.

The Commissioner is authorized to charge the fee under 37 C.F.R. § 1.17(c) and any other required fees, or to credit any overpayments, to Deposit Account No. 50-0893. This paper is submitted in triplicate.

If the Examiner in reviewing this submission does not believe the claims are in condition for allowance, Applicant requests a telephone conference with the undersigned at (510) 769-3508. Dated: March 15, 2004

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Respectfully submitted,


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Attachments: (1) Appendix A – Appealed Claims for 09/309,321

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APPENDIX A

APPEALED CLAIMS FOR 09/309,321

1. (Previously Presented) A controllable power supply for remotely controlling communication equipment comprising:
 - a housing having at least two distinguishable surfaces;
 - at least three independent first network sockets located on a first of said distinguishable surfaces;
 - wherein each of said first sockets are able to receive standard network cable connectors and able to independently receive control signals transmitted over a wire of a network cable;
 - said network cable also carrying network communication signals over separate data wires;
 - at least three independently controlled power supply sockets located on a second of said distinguishable surfaces;
 - control circuitry within said housing operatively connected with said first sockets, and said power supply sockets wherein power to each of said power supply sockets is able to be independently turned on or off directly in response to a high or low state of said control signals received at said first sockets.
2. (Previously Presented) The device according to claim 1, further comprising:
 - a power line for connecting to an external power source.
3. (Previously Presented) The device according to claim 1, further comprising:
 - at least three independent second network sockets wherein a network signal can pass over separate data wires from said control signal between said first sockets and said second sockets and have adequate required clearance without experiencing interference by said control circuitry and components of said power supply.
4. (Previously Presented) The device according to claim 1, further comprising:
 - an indicator light operatively connected to said control circuitry for indicating whether power to said power supply socket is turned on or off.

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5. (Previously Presented) The device according to claim 1, wherein said control circuitry comprises at least three control relays.
6. (Previously Presented) The device according to claim 1 wherein said first and second distinguishable surfaces are parallel to each other.
7. (Previously Presented) The device according to claim 1 wherein said housing constitutes a box comprising six surfaces.
8. (Previously Presented) The device according to claim 7 wherein said housing comprises a top surface, a bottom surface, a front surface, a rear surface, a left surface, and a right surface.
9. (Previously Presented) The device according to claim 8, wherein said first network socket is located on said front surface and said power supply socket is located on said rear surface.
10. (Previously Presented) The device according to claim 8, further comprising:
at least three independent second network sockets wherein a network signal can pass over separate data wires from said control signal between said first socket and said second socket and have adequate required clearance without experiencing interference by said control circuitry and components of said power supply; said first and second sockets forming a first pair of sockets and located on said front surface;
one or more additional pairs of network sockets located on said front surface, each pair receiving a control signal for a set of one or more power supply sockets located on said rear surface.
11. (Previously Presented) The device according to claim 9, wherein said top surface and said bottom surface are parallel planes between 1.5 and 2.0 inches apart.
12. (Previously Presented) The device according to claim 9, wherein said housing is mountable in a computer device rack and occupies only one rack unit.
13. (Previously Presented) A method of constructing a controllable power supply wherein sockets and control circuitry are contained within a housing having a constrained height and

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wherein a network cable can be used to carry a control signal without generating unacceptable interference on said network cable comprising:

placing a network socket on one surface of said housing, said network socket able to receive signals from a plurality of separate wires in a multiple wire network cable;

placing a power supply outlet on an opposite surface of said housing; and

placing control circuitry within said housing, said control circuitry operatively connected with said network socket and said power supply socket wherein power to said power supply socket is able to be turned on or off directly in response to a high or low state of a control signal received over a control signal wire of a network cable, said control signal wire separate from data carrying wires.

14. (Previously Presented) A network device controllable power supply comprising:

a housing having at least two surfaces;

a first network socket located on a first surface, said first socket connectable to a standard network cable;

a second network socket located on said first surface, said second socket connectable to a standard network cable;

a power supply socket located on a second surface; and

control circuitry within said housing operatively connected with said first socket and said power supply socket wherein power to said power supply socket is able to be turned on or off directly in response to a high or low state of a control signal received over one wire of a standard network cable at said first socket while not interfering with network communication signals on different wires flowing between said first socket and said second socket

wherein said first and second network sockets are one pair of at least three paired network sockets on one surface, each pair associated with at least one controlled power supply socket on another surface and each pair passing between the pair networking communication signals; and

further wherein for each pair, on one of said pair, a control signal can be received, controlling said at least one power supply socket associated with said pair.

15. (Previously Presented) (Cancelled)

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16. (Previously Presented) The device according to claim 14 wherein a network device is made controllable by:
- attaching a network cable intended for said network device to a first network socket of a pair of network sockets;
 - attaching said network device to a second network socket of a pair of network sockets; and
 - connecting a power input of said network device to a power socket associated with said pair.
17. (Previously Presented) The device according to claim 14 wherein said control circuitry comprises a control relay.
18. (Previously Presented) The device according to claim 14 wherein said first and second distinguishable surfaces are parallel to each other.
19. (Previously Presented) The device according to claim 14 wherein said housing constitutes a box comprising six surfaces.
20. (Previously Presented) The device according to claim 18 wherein said top surface and said bottom surface are parallel planes between 1.5 and 2.0 inches apart.
21. (Previously Presented) The device according to claim 14 wherein said housing is mountable in a computer device rack occupying only one rack unit.

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